

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

DATE: November 30, 2000

TO: Orange County Zoning Administrator

FROM: Planning and Development Services Department/Current Planning Services Division

SUBJECT: Public Hearing on Planning Application PA00-0097 for Coastal Development Permit, Variance, Site Development Permit and Use Permit.

PROPOSAL: Coastal Development Permit to demolish an existing single-family residence and construct a new multi-level, 7,331 square feet single-family residence on a beach front lot.

Setback Variance to allow the proposed dwelling to be located 10 feet back from the front property line, when a setback of 12 ½ feet is required for this lot.

Site Development Permit to allow for grading in excess of 500 cubic yard of grading on a lot with a slope greater than 15 percent. The proposal calls for 2,500 cubic yards of grading.

Use Permit to allow for retaining walls and garden walls in the setback areas to exceed the standard height limit of 6 feet in the front setback area and 8 feet in the side setback area.

LOCATION: In the community of Emerald Bay at 112 Emerald Bay, Laguna Beach. Fifth Supervisorial District.

APPLICANT: Mr. and Mrs. Weber, property owners

STAFF William V. Melton, Project Manager

CONTACT: Phone: (714) 834-2541 FAX: (714) 834-4652

SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA00-0097 subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The subject site is in the R1 (CD) District and is an approximately 8,961 square feet beachfront property measuring 65 feet in width with an average depth of 125 feet. The subject site is also in the Emerald Bay Local Coastal Program (LCP). The property has an elevation drop of approximately 45 feet from the front of the property to the rear (beach side) for a slope of over 30 percent. The site is developed with a multi-level, single-family dwelling. Mr. and Mrs. Weber, property owners, are presently living in the house.

They propose to demolish this home and construct a new 4-level, 7,330 square foot single family residence.

The proposed residence has 4 covered parking spaces and 3 open parking spaces in the driveway. The 4 covered spaces in the garage are tandem spaces. Only two of these spaces conform to the County's off-street standards, which is the minimum covered parking standard. The main structure has 5 bedrooms and 5 bathrooms. A pool area is proposed on the lowest living level at the rear of the house. Except for the front setback, the proposed dwelling conforms to all other R1 site development standards. In order to construct the proposed single-family dwelling the applicant will be required to obtain approval of Coastal Development Permit, Use Permit, Site Development Permit and Variance as generally described in the Proposal Section above.

SURROUNDING LAND USE:

Direction	Zoning	Existing Land Use
Project Site	R1 (Single-Family Residential (CD)	Single Family residence
North	R1 (Single-Family Residential (CD)	Single Family residence
South	R1 (Single-Family Residential (CD)	Single Family residence
East	R1 (Single-Family Residential (CD)	Single Family residence
West	OS (Open Space)	Emerald Bay community beach

REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Also, since this proposal is for a Coastal Development Permit, notices of the hearing were sent to occupants in homes within 100 feet of the project site. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to six County Divisions and the Emerald Bay Community Association.

As of the writing of this staff report, no comments raising issues with the project that could not be addressed through Standard Conditions of Approval have been received from other County divisions. The proposal received approval from the Emerald Bay Board of Directors on July 5, 2000.

CEQA COMPLIANCE:

Negative Declaration No. PA000097 (Exhibit 2) has been prepared for this proposal. It was posted for public review on September 21, 2000 and became final on October 11, 2000. Prior to project approval, the

Zoning Administrator must find this ND adequate to satisfy the requirements of CEQA. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

The proposal is subject to approval of four separate discretionary permits: a Coastal Development Permit, a Use Permit, a Site Development Permit and a Variance. Since the project site is located between the ocean and the first public highway (Pacific Coast Highway) a Coastal Development Permit is required for both the demolition of the existing home and construction of the proposed new home. Also, the proposal is “an appealable development” subject to appeal to the California Coastal Commission. The new home proposed conforms to the site development standards of the R1 District (except the front setback) and the Emerald Bay CC&Rs. Staff did not note any conflicts for this proposal with the Emerald Bay LCP.

Staff notes that this proposal is similar in scale to two new homes just recently approved along this community beach area. On March 16, 2000, Planning Application PA99-0206 at 108 Emerald Bay; and, on November 16, 2000 Planning Application PA00-0087 at 106 Emerald Bay were approved. These approvals permitted the applicants to demolish existing multi-level single family residences and construct new multi-level single-family dwellings. The most recent proposals also included a Coastal Development Permit, a Variance to the front yard setback standard and a Site Development Permit for grading in excess of 500 cubic yards on a slope in excess of 15 percent. These two other approvals also included a Use Permit for guesthouses.

A Site Development Permit is required for this proposal because of the grading required and the slope of the property. The site has an average slope greater than 15 percent and grading plans call for 2,530 cubic yards of cut with 125 cubic yards of fill, leaving 2,405 cubic yards of export. The purpose of the grading is to “dig” the structures into the property in order to meet the strict Emerald Bay height limits required for this property. The large four level home will stair step down the slope and only the forth level with the with the garage will be above the street level. Staff did not notice any outstanding planning issues associated with this request. Standard conditions for grading and drainage should address any grading issues.

The Use Permit is for over height retaining walls located in the setback areas, which are requested so as to provide a terrace area in the front and to provide for light and air at the sides of the property. Over height retaining walls are common for new construction in Emerald Bay. The over height walls face the interior of the applicant’s site and should not have a negative affect on the adjacent properties. Staff did not identify any planning issues with this portion of the Planning Application.

The requested front setback variance should not affect any surrounding property owners and is consistent with other previously approved front yard setback variances. Regarding the front setback, because of setback averaging, the required front setback for this lot is 12’-6”. The home on one side of the site is setback 5 feet and the home on the other side of the property is setback more than 20 feet, (a maximum of 20 feet is used in averaging), which gives an average of 12”-6” for the subject site. The applicant is requesting a front setback of 10 for a small portion of the residence. Staff notes that the front property line is back 5 feet from the actual edge of the street pavement. While the proposed setback for the house is at 10 feet from the front property line, it is setback 15 feet to the edge of the street. The garage is setback a

minimum of 25 feet from the curb (18 feet minimum required). A garage setback of 5 to 6 feet from the edge of the street is a typical setback variance request in Emerald Bay. Staff did not identify any issues with this variance request.

Staff is of the opinion that the Site Development Permit for grading, the Use Permit for over height walls, and the front yard setback Variance are typical of previously approved proposals throughout Emerald Bay. The proposal appears to be compatible with the properties in the near vicinity to the subject site. However, before this variance portion of this request can be approved, the Zoning Administrator, in accordance with State and County planning laws, must be able to make the following variance findings listed below. If the Zoning Administrator can not make these findings, the application must be disapproved.

1. *There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.*
2. *Approval of the application will not constitute a grant of special privileges, which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.*

Staff is of the opinion that the Zoning Administrator is able to make these two variance findings and approve the variance request portions of this proposal. The special circumstances required by finding 1 above is found in Appendix A, Finding No. 13. In conclusion, staff's review determined the applicant's proposed new single family dwelling, proposed grading and variance request are consistent with other beach front developments in this portion of Emerald Bay, especially the most recent approval at 106 and 108 Emerald Bay. Staff supports the applicant's proposal and makes a recommendation as follows.

RECOMMENDED ACTION:

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA00-0097 for Coastal Development Permit, Variance, Site Development Permit and Use Permit subject to the attached Findings and Conditions of Approval.

Respectfully submitted

C. M. Shoemaker, Chief
CPSD/Site Planning Section

WVM
Folder

APPENDICES:

- A. Recommended Findings
- B. Recommended Conditions of Approval

EXHIBITS:

- 1. Applicant's Letter of Explanation
- 2. Environmental Document
- 3. Site Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of 245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana.

In addition, this project is within the Coastal Zone and is an "appealable development". Approval of an appealable development may be appealed directly to the California Coastal Commission (telephone number 562-560-5071), in compliance with their regulations, without exhausting the County's appeal procedures.



Appendix A

Findings

PA000097

1	GENERAL PLAN	PA000097
That the use or project proposed is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.		
2	ZONING	PA000097
That the use, activity or improvement(s) proposed, subject to the specified conditions, is consistent with the provisions of the Zoning Code, or specific plan regulations applicable to the property.		
3	COMPATIBILITY	PA000097
That the location, size, design and operating characteristics of the proposed use will not create unusual noise, traffic or other conditions or situations that may be objectionable, detrimental, or incompatible with other permitted uses in the vicinity.		
4	GENERAL WELFARE	PA000097
That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.		
5	PUBLIC FACILITIES	PA000097
That the approval of the permit application is in compliance with Codified Ordinance Section 7-9-711 regarding public facilities (fire station, library, sheriff, etc.).		
6	COASTAL DEVELOPMENT PERMIT 1	PA000097
That the development project proposed by the application conforms with the certified Local Coastal Program.		
7	COASTAL DEVELOPMENT PERMIT 2	PA000097
That the project conforms with the public access and public recreation policies of the California Coastal Act.		
8	COASTAL DEVELOPMENT PERMIT 3	PA000097
That the approval of this application will result in no modification to the requirements of the certified land use plan.		
9	COASTAL DEVELOPMENT PERMIT 4	PA000097
That the approval of the application will result in a project which is in full compliance with the requirements of the certified land use plan.		
10	NEGATIVE DECLARATION	PA000097 (Custom)

That in accordance with Section 21080(c) of the Public Resources Code and CEQA Guidelines Section 15074, Negative Declaration No.PA000097, which reflects the independent judgment of the lead agency, satisfies the requirements of CEQA and is approved for the proposed project based upon the following findings:

- a. The Negative Declaration and Comments on the Negative Declaration received during the public review process were considered and the Negative Declaration was found adequate in addressing the impacts related to the project; and
- b. There is no substantial evidence that the project, with the implementation of the mitigation measures, if any, which are included in the Negative Declaration, will have a significant effect on the environment.

11	FENCE AND WALL 2	PA000097
That the location, size, design and other characteristics of the fence or wall will not create conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity.		

12	SAN JOAQUIN HILLS TRANSPORTATION CORRIDOR	PA000097
That the subject project lies within the area of benefit of the San Joaquin Hills Transportation Corridor. In order to find this project consistent with the General Plan and to ensure that the traffic impacts have been adequately mitigated, it is necessary to adopt a condition requiring the developer to participate in the fee program adopted by the Board of Supervisors.		

13	VARIANCE 1	PA000097 (Custom)
That there are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations. The special circumstances are: the steep topography of the site and the restrictive Emerald Bay CC&Rs for building height.		

14	VARIANCE 2	PA000097
That approval of the application will not constitute a grant of special privileges which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.		



Appendix B

Conditions of Approval

PA000097

1 CP CP NA BASIC/ZONING REG PA000097

This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Zoning Code and any other applicable zoning regulations. Approval does not include any action or finding as to compliance of approval of the project regarding any other applicable ordinance, regulation or requirement.

2 CP CP NA BASIC/TIME LIMIT PA000097

This approval is valid for a period of 24 months from the date of final determination. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void.

3 CP CP NA BASIC/PRECISE PLAN PA000097

Except as otherwise provided herein, this permit is approved as a precise plan. If the applicant proposes changes regarding the location or alteration of any use or structure, the applicant shall submit a changed plan to the Director, PDS, for approval. If the Director, PDS, determines that the proposed change complies with the provisions and the spirit and intent of the approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.

4 CP CP NA BASIC/COMPLIANCE PA000097

Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Planning Commission.

5 CP CP NA BASIC/OBLIGATIONS PA000097

Applicant shall defend at his/her sole expense any action brought against the County because of issuance of this permit. Applicant shall reimburse the County for any court costs and attorneys fees that the County may be required to pay as a result of such action. The County may, at its sole discretion, participate in the defense of any action, but such participation shall not relieve applicant of his/her obligations under this condition.

6 CP CP NA BASIC/APPEAL EXACTIONS PA000097

Pursuant to Government Code Section 66020, the applicant is hereby informed that the 90-day approval period in which the applicant may protest the fees, dedications, reservations or other exactions imposed on this project through the conditions of approval has begun.

7 SG SG GB DRAINAGE STUDY PA000097

Prior to the issuance of any grading permits, the following drainage studies shall be submitted to and approved by the Manager, Subdivision and Grading:

- A. A drainage study of the project including diversions, off-site areas that drain

onto and/or through the project, and justification of any diversions; and

B. When applicable, a drainage study evidencing that proposed drainage patterns will not overload existing storm drains; and

C. Detailed drainage studies indicating how the project grading, in conjunction with the drainage conveyance systems including applicable swales, channels, street flows, catch basins, storm drains, and flood water retarding, will allow building pads to be safe from inundation from rainfall runoff which may be expected from all storms up to and including the theoretical 100-year flood.

8 SG SG GB DRAINAGE IMPROVEMENTS PA000097

A. Prior to the issuance of any grading permits, the applicant shall in a manner meeting the approval of the Manager, Subdivision and Grading:

- 1) Design provisions for surface drainage; and
- 2) Design all necessary storm drain facilities extending to a satisfactory point of disposal for the proper control and disposal of storm runoff; and
- 3) Dedicate the associated easements to the County of Orange, if determined necessary.

B. Prior to the issuance of any certificates of use and occupancy, said improvements shall be constructed in a manner meeting the approval of the Manager, Construction.

9 F F RBU AUTOMATIC FIRE SPRINKLER PA000097 (Custom)

A. Prior to the issuance of a building permit, the applicant shall submit plans for any required automatic fire sprinkler system in any structure to the OCFA for review and approval.

B. Prior to the issuance of a certificate of use and occupancy, this system shall be operational in a manner meeting the approval of the Fire Chief.

10 F F B COMBUSTIBLE CONSTRUCTION LETTER PA000097 (Custom)

Prior to the issuance of a building permit for combustible construction, the builder shall submit a letter to the Fire Chief on company letterhead stating that water for fire-fighting purposes and the all weather fire protection access roads shall be in place and operational before any combustible material is placed on-site. Approval shall be subject to an on-site inspection prior to the issuance of a building permit.

11 SG SG G GEOLOGY REPORT PA000097

Prior to the issuance of a grading permit, the applicant shall submit a geotechnical report to the Manager, Subdivision and Grading, for approval. The report shall include the information and be in the form as required by the Grading Manual.

12 BP BP G CONSTRUCTION NOISE PA000097

A. Prior to the issuance of any grading permits, the project proponent shall produce evidence acceptable to the Manager, Building Permit s Services, that:

(1) All construction vehicles or equipment, fixed or mobile, operated within 1,000' of a dwelling shall be equipped with properly operating and maintained mufflers.

(2) All operations shall comply with Orange County Codified Ordinance Division 6 (Noise Control).

(3) Stockpiling and/or vehicle staging areas shall be located as far as practicable from dwellings.

B. Notations in the above format, appropriately numbered and included with other notations on the front sheet of the project's permitted grading plans, will be considered as adequate evidence of compliance with this condition.

13 SG SG B ROAD FEE PROGRAM PA000097 (Custom)

Prior to the issuance of building permits, the applicant shall pay fees for the San Joaquin Hills Transportation Corridor Fee Program, in a manner meeting the approval of the Manager, Subdivision and Grading.

14 SG SG G SIGHT DISTANCE PA000097

Prior to the issuance of any grading permits, the applicant shall provide adequate sight distance per Standard Plan 1117 at all street intersections, in a manner meeting the approval of the Manager, Subdivision and Grading. The applicant shall make all necessary revisions to the plan to meet the sight distance requirement such as removing slopes or other encroachments from the limited use area in a manner meeting the approval of the Manager, Subdivision and Grading Services.